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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/061,773	02/01/2002	Cui Bao Tai	32008-pa	3821

7590 12/19/2002
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EXAMINER

TOOMER, CEPHIA D

ART UNIT	PAPER NUMBER
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1714

DATE MAILED: 12/19/2002

5

Please find below and/or attached an Office communication concerning this application or proceeding.

AS-3

Office Action Summary

Application No.

10/061,773

Applicant(s)

TAI ET AL.

Examiner

Cephia D. Toomer

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-43 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ 6) ☐ Other: ____

DETAILED ACTION

Specification

1. The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Double Patenting

2. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

3. Claims 1-36 are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-36 of copending Application No. 09/881310. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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5. Claims 15, 27, 29, 36 and their dependents are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 15 is rejected because there is no antecedent support in the previous claims for "said lighting tab."

In claim 27, it is not clear what is meant by "plan view".

Claim 29 is rejected because it is not clear what constitutes "zones of designated accelerated localized."

In claim 36, "lease" should read – least --.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 8, and 10-12 are rejected under 35 U.S.C. 102(b) as being anticipated by CN 1196382.

CN teaches a briquette comprising a matrix layer and a igniting layer. The matrix layer comprises anthracite, charcoal, starch and water. The igniting layer comprises anthracite, barium nitrate, and sodium nitrate. See abstract in its entirety.

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Accordingly, CN teaching all the material limitations of the claims, anticipates the claims.

8. Claims 8 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by GB 2,306,502.

GB teaches a briquette for barbecuing comprising carbonaceous matter and having disposed on the top of the carbonaceous material an oxidizing material (accelerant). GB teaches that the briquettes contain anthracite. See abstract; claims 1, 4, 5, 6; Examples.

Accordingly, GB teaching all the material limitations of the claims, anticipates the claims.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 27-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Christian (US 4,243,393).

Christian teaches a coal article having a tube-like structure with a hollow core (see abstract; Figures). The coal article may be dipped in hot wax to coat the article.

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The wax facilitates the ignition and burning of the coal (see col. 4, lines 22-31). It is the examiner's position that the wax functions as an accelerant. The core of the article may be of different shapes, as shown in the drawings.

Christian does not specifically teach that the accelerant is on the venting means. However, it would be reasonable to expect that the accelerant would be on the venting means because Christian dips the coal article into the wax (accelerant) and coats the article with the wax. Given this teaching it would be reasonable to expect that some of the wax adheres to the inside article in the hollow core.

11. Claims 1, 2, 4, 5, 11, 12, 32-36, and 39-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over GB 2,306,502.

GB teaches a briquette for barbecuing comprising carbonaceous matter and having disposed on the top of the carbonaceous material an oxidizing material (accelerant). GB teaches that the briquettes contain anthracite. See abstract; claims 1, 4, 5, 6; Examples. The carbonaceous material is coal, coke or charcoal. The material are bound together by use of a water-based binder such as starch. The carbonaceous material and binder are consolidated in a mold by pressure (see page 1,, lines 3-7, 14-19, 22-27; page 2, lines 1-2). The briquettes also contain an oxidizing material disposed on top of the carbonaceous material. The oxidizing material comprises from 5-75% of the igniting section of the briquette (see page 2, lines 5-22; page 3, lines 2-4). The oxidizers include inorganic nitrates, such as alkali and alkaline earth metals nitrates (see page 4, lines 20-21 and Examples). The briquette may possess one or more flues (see Figures).

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GB teaches the limitations of the claims other than the separate step of forming the monolith of carbonaceous material and then introducing the accelerant and pressing the carbonaceous material and accelerant. However, it is well settled that the selection of any order of performing process steps is prima facie obvious in the absence of new or unexpected results. GB clearly teaches a similar briquette.

12. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over GB 2,306,502 in view of Young (US 4,822,380).

GB has been discussed above. GB fails to teach that the briquette of its invention is coated. However, Young teaches this limitation. See abstract in its entirety.

It would have been obvious to one of ordinary skill in the art to have coated the briquette because Young teaches that the coating makes it easier and cleaner to handle the briquette.

13. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over GB 2,306,502 in view of Young (US 4,822,380) and Avedikian (US 3,934,986)

GB has been discussed above. GB fails to teach that the briquette of its invention is coated. However, Young teaches this limitation. See abstract in its entirety.

It would have been obvious to one of ordinary skill in the art to have coated the briquette because Young teaches that the coating makes it easier and cleaner to handle the briquette.

GB also fails to teach that the briquette contains a fusing mean. However, Avedikian teaches this difference (see col. 4, lines 54-64).

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It would have been obvious to one of ordinary skill in the art to have included a fusing mean on the briquettes because it would allow the briquettes to be ignited in an easier manner.

14. Claims 3, 9, 13-26, 31, and 37-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over GB 2,306,502 in view of Avedikian (US 3,934,986).

GB fails to teach that the briquette contains a fusing mean. However, Avedikian teaches this difference (see col. 4, lines 54-64).

It would have been obvious to one of ordinary skill in the art to have included a fusing mean on the briquettes because it would allow the briquettes to be ignited in an easier manner.


15. The prior art made of record and not relied upon is cited for teaching the general state of the art and is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cephia D. Toomer whose telephone number is 703-308-2509. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on 703-306-2777. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.


Cephia D. Toomer
Primary Examiner
Art Unit 1714

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December 14, 2002